

1 **REMARKS**

2 (Paragraph 9): In the above named Office communication letter, examiner's
3 paragraphs 1 and 2 address the layout of a game board described in the
4 specification of the above named application.

5
6 (Paragraph 10): The examiner's paragraphs 1 and 2 each address the same
7 issue. Paragraph 1, objects to fig. 1 in that it is not consistent with the claim 1
8 assertion of, "the number of spaces in any given lane being inversely
9 proportional to the probability of rolling a dice value allowing the car in that lane
10 to advance, such that the probability of advancing to the winner's lane is
11 essentially equal for all playing pieces."

12
13 (Paragraph 11): The examiner's paragraph 2 objects to the disclosures of
14 claims 1 and 2, asserting that the drawing of fig. 1 is not true to the specification
15 as understood from specification page 9, lines 9-15, indicating that the
16 specification and drawing fig. 1 are not in conformance with the above quoted
17 inversely proportional probability dictated by claim 1.

18
19 (Paragraph 12); In partial response to the, above examiner's paragraphs 1
20 and 2 objections, a substitute fig. 1A drawing is herein submitted, enclosed as a
21 separate document. In the substitute drawing the number of segments in each
22 lane is established in conformance with commonly available probability tables for

1 standard six-sided casino dice. The number of segments in each lane is twice
2 the number of dice face combinations required to roll that given lane number.

3
4 (Paragraph 13): The applicant believes this substitute fig. 1A to be in
5 conformance with claim one. In further support and explanation, the following
6 table displays the number of combinations available for each sum and the
7 proportional number of squares statistically dictated, thereby, for each lane.

8	9	10	11
Value	Number of	Number of	
(Track number)	combinations available	segments in track	
12	1	2	
13	2	4	
14	3	6	
15	4	8	
16	5	10	
17	6	12	
18	5	10	
19	4	8	
20	3	6	
21	2	4	
22	1	2	

23 (Paragraph 14): Also in response to the examiner's paragraphs 1 and 2
24 objections, corrective amendments are requested in Paragraphs 1, 2, 3, and 4,
25 above, under separate heading. Paragraph 1 applies to pg 9, lines 4-9.

1 Paragraph 2 applies to pg 11, first paragraph under "Game components" (lines
2 20 through 23, continuing to pg 12 lines 1 through 8). Paragraph 3 applies to
3 fourth paragraph under the heading "Racing (lines 20 – 23, continuing to pg 12,
4 lines 1 – 7). Paragraph 4 applies to the first paragraph under the heading
5 entitled "The Object of the Game (Winning)", lines 17 through 22. Each of these
6 amendments concerns delineation of the number of spaces to be traversed in
7 each lane, in conformance with the probability table, above.

8
9 (Paragraph 15): The examiner's letter, paragraph 3, expresses objection to
10 claim 1 punctuation informalities. In response to this objection, cancellation of
11 claims 1 and 2 is requested in paragraph 9, above, under separate heading, and
12 new claims 3 through 14 are submitted in a form compliant to examiner's
13 correction requirements.

14
15 (Paragraph 16): In response to examiner's paragraphs 4 and 5 proposed
16 rejection to claims 1 and 2 for use of the phrase "such as," applicant, in
17 paragraph 9 above, under a separate heading, respectfully requests cancellation
18 of claims 1 and 2 and substitutes new claims 3 through 14 wherein the offending
19 phrase does not appear.

20
21 (Paragraph 17): In response to examiner's paragraph 6 objection to drawings
22 for failure to include reference(s) signed (44), applicant respectfully submits, in
23 paragraphs 5, 6, and 7, above, amendments to the specification that eliminate

1 any apparent references to an item (44) in the specification. Applicant believes
2 this removes all grounds for objection based on failure to include reference
3 sign(s) mentioned in the description and obviates any need for replacement
4 drawing sheets to add this item.

5
6 (Paragraph 18): The applicant believes that the above changes to the
7 specification render it consistent with the drawings, thus obviating the examiner's
8 suggested corrected drawings to add item (44), and with respect to examiner's
9 paragraph six objection, removing the stated grounds for objection. Applicant,
10 therefore, respectfully requests reconsideration of examiner's paragraph six
11 objection and allowance of the drawings.

12
13 (Paragraph 19): Examiner's paragraphs 7, 8, 9, and 10 propose rejection due
14 to anticipation and obviousness due to lack of limitation of claims 1 and 2. This
15 is based on the examiner's perception that "Goyette" (5322293) and "Welsh"
16 (4729568) display the same level of adherence to the examiner stated "inversely
17 proportional rule" as the applicant's art.

18
19 (Paragraph 20): In response, to these examiner's paragraphs 7, 8, 9, and 10
20 proposed rejections due to anticipation and obviousness, the applicant
21 respectfully submitted, and refers to, the corrective substitute drawings and
22 corrective amendments, addressed in paragraphs 1, 2, 3, 4, 5, 6, 9, 10, 11, and
23 12, above. These corrections provide for more precisely defined application of

1 the stated "Method to govern movement based on adjusted probability." By
2 adjustment for strict compliance with the applicant's paragraph 10 table, above,
3 the applicant makes this element of the claim a significant and tightly defined
4 limitation. Applicant, therefore, respectfully requests allowance of his claims with
5 the above drawings and amendments.

6
7 (Paragraph 21): The applicant respectfully asserts that his correct
8 introduction of strictly constructed **probability based numbers of squares in**
9 **each lane renders the game results non-intuitively predictable, while**
10 **holding equal the probability of a win in any given lane.** This clever variation
11 of the number of spaces per lane is a **significant limitation** and a crux of the
12 applicant's art to "make the game interesting" through hiding the equal
13 **opportunities of each player in the unequal number of spaces per lane.**
14 Applicant respectfully asserts that **this non-intuitive quality, by definition,**
15 **renders his art non-obvious** and respectfully requests allowance of his claims
16 with the above drawings and amendments.

17
18 (Paragraph 22): Applicant, further, respectfully asserts that this non-obvious
19 statistical equality, as correctly presented in the above amendments and
20 substitute drawing, is **absent from the examiner quoted art of "Goyette"**
21 **(5322293) and "Welsh" (4729568) and therefore not anticipated by the art of**
22 **either,** and respectfully requests allowance of his claims with the above drawings
23 and amendments.

1 (Paragraph 23): Examiner's paragraph 11 proposes rejection of claim 2 in
2 that "Patridge (3738659) over "Goyette" (5322293) teaches the same limitations.
3 However, applicant respectfully asserts that the **above offered amendments**
4 **and substitutions sufficiently limit his art so as to render it substantially**
5 **divergent from that of Goyette.** This, thereby nullifies any apparent similarity
6 or combination that might, otherwise, have been imposed by Patridge. Applicant,
7 therefore, respectfully requests reconsideration and allowance of his claims,
8 taking into account the amendments herein.

9
10 (Paragraph 24): In further differentiation from previously extant technologies,
11 a principle of the art as taught herein is that each playing piece on the board is
12 assigned to a single given lane for the duration of the game. There is no lane
13 switching. In this, it significantly diverges from the examiner referenced art of
14 Goyette which permits lane switching as means of progress. This lane switching
15 element of Goyette renders it incompatible with the inverse probability construct
16 of the applicant's herein taught technology. The result would be a clearly
17 **inoperative combination.** As such, it is inherently, also, an **unsuggested**
18 **combination.** That is to say that, because such a combination would result in
19 inoperability, there are no grounds for asserting suggestion of it. Applicant,
20 therefore, respectfully requests reconsideration and allowance of his claims with
21 the above drawings and amendments.

1 (Paragraph 25): With respect to examiner's paragraph 12 referred prior art
2 not relied upon Frank-Opigo (5624120), applicant respectfully asserts examiner
3 **misunderstood reference** in that "Frank-Opigo" does not use a probability-
4 based model at all, for the election electoral-college is not probability based.
5 Statistical issues in that system are happenstance results of population densities,
6 not pre-conceived nor logically constructed probability parameters. "Frank-
7 Opigo" is, therefore, so dissimilar that it **suggests no combinations** with, or
8 applications to, racing game art as taught herein by the applicant.

9
10 (Paragraph 26): Further, the applicant respectfully asserts that his art is
11 **prima facia discernable and distinct** from the art of Frank-Opigo. The
12 applicant teaches a progressive board game in which the players hop from
13 square to square in a direct, visually presented, racing-style forward progression
14 to a finish line, using a concealed statistical balancing function. However, the art
15 of "Frank-Opigo" is broadly divergent, in both concept and principle, in that it
16 teaches a game based on a map of the United States, wherein players compete
17 to take constituencies, state by state, based on known electoral-college values,
18 pursuing them in no particular order, course, or direction. Unlike that taught by
19 the applicant, Frank-Opigo has no concealed statistical balance and no visible
20 forward movement, or even meaningful directional progression. Applicant
21 respectfully asserts that this renders it immediately **prima facia discernable and**
22 **distinct** from the art of the applicant.

1 (Paragraph 27): Not mentioned in the Examiner's letter, but listed in its
2 accompanying List of References Cited, is US Patent 5,437,459 (Kirby). As
3 demonstrated for the other patents mentioned above, Kirby does not employ the
4 inverse probability characteristic that sets the applicant's instant patent apart in
5 the field, and accordingly fails to anticipate the applicant's art.

6
7 (Paragraph 28): In additional support of patentability, applicant respectfully
8 asserts his field to constitute a **Crowded Art**, being subjected to many decades
9 of extensive development in both technology and the commercial market. In
10 view of this, the applicant's contributions to the art embodied in the herein taught
11 game are disproportionately significant.

12
13 (Paragraph 29): Further, applicant respectfully asserts that all the examiner
14 introduced **references are individually complete**. There is no reason to use
15 parts from, or add or substitute parts to any reference to overcome a problem
16 with any listed reference. This is largely because board games are distinctive
17 among the arts in that they merely represent, or at the most only simulate, reality
18 or imaginary events. Board games are essentially conceptual and nothing more.
19 They need not significantly cope with limitations of the physical world. For a
20 board game to be commercially successful, it must be complete upon
21 presentation, fully developed, and functional within itself. Since the system of
22 play must be perfected for a game to succeed, **operative board games**

1 **inherently require no additional or substitute parts.** They, therefore, suggest
2 no combinations.

3
4 (Paragraph 30): Finally, the applicant respectfully submits that with the new
5 independent claims 1, 7 and 11 correctly defined limitations, (adding no new
6 matter) the new dependant claims 2, 3, 4, 5, 6, 8, 9, 10, 12, 13, and 14
7 incorporate all the subject matter of the new independent claims subject matter
8 and contribute additional limitations that make them a fortiori and independently
9 patentable over the herein discussed references.

10 11 **SUMMARY/EPILOGUE**

12 (Paragraph 31): Only the above, specified substantive changes have been made to
13 the above application "clean" specification and/or claims as enclosed. No other
14 substantive alterations, additions or deletions have been effected.

15 16 **CONCLUSION**

17 (Paragraph 32): For all of the above reasons, and in view of the above amendments
18 and clarifications, the applicant submits that his specification and claims are now in
19 proper form, and that the claims all define art patentable over previous technologies.
20 Therefore, the applicant submits that this application is now in condition for allowance,
21 which action he respectfully solicits.

(Paragraph 33): If, for any reason, this application is not believed to be in full condition for allowance, the applicant respectfully requests the constructive assistance and suggestions of the examiner pursuant to M.P.E.P. § 2173.02 and § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings.

Very respectfully,



David Douglas Winters
USPTO reg.# 50,746

Encl:

- (1) Copy of USPTO office action letter conf. no. 3785 mailed 03/09/2005
- (2) Substitute Drawing Submission
- (3) App. 1, Specification Excerpts Marked Up
- (4) App. 2, Specification, Clean Copy
- (5) App. 3, Claims List, Marked Up
- (6) App. 4, Claims List, Clean Copy

CERFITICATE OF MAILING: I certify that on the date below, this document and referenced attachments will be deposited with the EXPRESS MAIL US POSTAL SERVICE on the date indicated, addressed to: "BOX NON-FEE AMENDMENTS, PO Box 1450 Alexandria, VA 22313-1450, USA.

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Date

31/4/2005

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